

## 2011 DRAFTING REQUEST

### Bill

Received: **10/18/2011**

Received By: **chanaman**

Wanted: **As time permits**

Companion to LRB:

For: **Joel Kleefisch (608) 266-8551**

By/Representing: **Stephanie**

May Contact:

Drafter: **chanaman**

Subject: **Criminal Law - crimes agnst kids**  
**Criminal Law - sentencing**  
**Criminal Law - sex offenses**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Kleefisch@legis.wisconsin.gov**

Carbon copy (CC:) to:

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#### Pre Topic:

No specific pre topic given

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#### Topic:

Capturing images of nude child

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#### Instructions:

See attached

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#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 10/20/2011	mduchek 11/17/2011		_____			S&L
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/1	chanaman 01/27/2012	mduchek 01/27/2012	rschluet 01/10/2012	_____	sbasford 01/10/2012	mbarman 01/10/2012	S&L
/2	chanaman 02/06/2012	mduchek 02/06/2012	rschluet 01/27/2012	_____	lparisi 01/27/2012	lparisi 01/27/2012	S&L

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/3

jmurphy \_\_\_\_\_  
02/06/2012 \_\_\_\_\_

mbarman \_\_\_\_\_  
02/06/2012 \_\_\_\_\_

mbarman \_\_\_\_\_  
02/06/2012 \_\_\_\_\_

FE Sent For:

*At intro  
2/24/2012*

<END>

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/3			jmurphy _____		mbarman		
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 2/6/12 pm 2/6  
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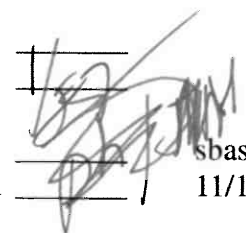
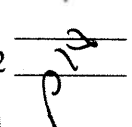
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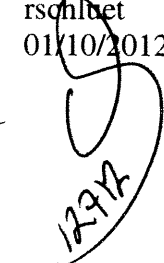
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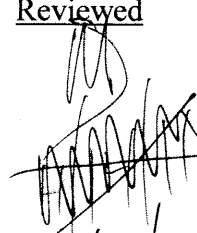


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/?	chanaman			 RS 11/17			
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FE Sent For:

11/17/11 11/17 <END>  
1P1

**Hanaman, Cathlene**

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**From:** Kundert, Stephanie  
**Sent:** Tuesday, October 11, 2011 9:58 AM  
**To:** Hanaman, Cathlene  
**Cc:** Rep. Kleefisch  
**Subject:** Proposed legislation

Hi Cathlene,

I hope this finds you well. We received the following e-mail from a police detective who works and resides in Joel's district. Joel would like to propose legislation to address the concerns shared by this police detective with regards to statutorily distinguishing between a child victim and an adult victim when it comes to "capturing a representation depicting nudity" and getting the offender placed on the sexual predator list.

If you have any questions or concerns regarding this draft, please do not hesitate to contact our office. Thanks so much, Cathlene!

Stephanie

**Stephanie L. Kundert**  
Office of Representative Joel Kleefisch  
Member, Joint Committee on Finance  
38th Assembly District  
321 East, State Capitol  
Madison, WI 53708  
608.266.8552  
stephanie.kundert@legis.wisconsin.gov

I have spent over a year investigating a case of child pornography possession and capturing pictures depicting nudity. **The case involves a 30 year old male who used his cell phone to capture pictures of a 13 year old boy through a bathroom window while he was in the shower.** The pictures were then transferred to his laptop computer. I will not get into great detail here but needless to say there are a lot of other components and extenuating circumstances of this case not the least of which is the suspects possession of confirmed child porn that for various reasons we are not able to charge.

**As a result of these extenuating circumstances I have only been able to charge the suspect with 942.09(2) for Capturing a Representation Depicting Nudity. Although it is a felony, the statute does not distinguish between capturing a picture of an adult or a child.** I think it goes without saying that a 30 year old man who captures a picture of an child through a bathroom window has significantly more serious issues than if the victim is an adult and as a result should be dealt with differently. As I stated, the charge is a felony so I do not have an issue with that aspect of the statute. **My issue is that because the statute doesn't distinguish between child and adult victims, I am not able to get this man on the sexual predator/offender list and subject to all of the restrictions and protections that being on the list provides the public.** Further, anyone checking the defendants criminal history will not be able to determine the age of the victim by the charge.

It is my contention that this law needs to be changed and/or adjusted to protect children because as it is written now it doesn't do so as my current case proves. I understand we have an election year looming and the democrats are still obsessed with the budgets, recalls, and anti-Walker agendas, but this needs to get fixed.

Thank you for your consideration and I look forward to hearing from you.



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-3238/P  
CMH:.....

*d-note*

*P1*

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

*TODAY*  
*11/17*

*Need*

*sex act*

*INS A*

1 **AN ACT** ...; relating to: representations depicting nude children and requiring  
2 sex offender registration.

*or*

*or*

*that*  
**Analysis by the Legislative Reference Bureau**

Under current law, with exceptions, a person commits a Class I felony if he or  
\* she does any of the following: 1) takes a photograph, *that* makes a motion picture,  
\* videotape, or other visual representation of a nude person without the person's  
\* consent when the person has a reasonable expectation of privacy; 2) reproduces such  
\* a photograph, motion picture, videotape, other visual representation; or 3)  
\* possesses, distributes, or exhibits such a representation. In addition to the felony  
conviction, the court may order a person to register with the Department of  
Corrections (DOC) as a sex offender if the court determines that the underlying  
conduct was sexually motivated and that registration would be in the interest of  
public protection. Under this bill, *that* if a person commits the Class I felony and the  
victim has not attained the age of 18, the court must order the person to register with  
DOC as a sex offender. *or maintain*

For further information see the **state and local** fiscal estimate, which will be  
printed as an appendix to this bill.

*either the felony or the misdemeanor*

**The people of the state of Wisconsin, represented in senate and assembly, do  
enact as follows:**

3 **SECTION 1.** 48.685 (1) (c) 2. of the statutes is amended to read:

1 48.685 (1) (c) 2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19  
2 (2), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295,  
3 942.09 (2), 948.02 (1) or (2), 948.025, 948.03 (2), 948.045 (2), 948.05, 948.051,  
4 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13,  
5 948.21 (1), 948.30, or 948.53.

**History:** 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153; 2009 a. 28, 76, 94, 185; 2011 a. 32; s. 13.92 (2) (i); 2011 a. 35.

6 **SECTION 2.** 51.20 (13) (ct) 2m. of the statutes is amended to read:

7 51.20 (13) (ct) 2m. If the subject individual is before the court on a petition filed  
8 under a court order under s. 938.30 (5) (c) 1. and is found to have committed a  
9 violation, or to have solicited, conspired, or attempted to commit a violation, of s.  
10 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.045, 948.05,  
11 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or  
12 (am), 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or  
13 of s. 940.30 or 940.31 if the victim was a minor and the subject individual was not  
14 the victim's parent, the court shall require the individual to comply with the  
15 reporting requirements under s. 301.45 unless the court determines, after a hearing  
16 on a motion made by the individual, that the individual is not required to comply  
17 under s. 301.45 (1m).

**History:** 1975 c. 430; 1977 c. 26, 29; 1977 c. 187 ss. 42, 43, 134, 135; 1977 c. 428 ss. 29 to 65, 115; 1977 c. 447, 449; Sup. Ct. Order, 83 Wis. 2d xiii; 1979 c. 32, 89; Sup. Ct. Order, eff. 1-1-80; 1979 c. 110 s. 60 (1); 1979 c. 175 s. 53; 1979 c. 300, 336, 356; 1981 c. 20, 367; 1981 c. 390 s. 252; 1983 a. 27, 219; 1983 a. 474 ss. 2 to 9m, 14; 1985 a. 29 ss. 1067 to 1071, 3200 (56), 3202 (56); 1985 a. 139, 176, 321, 332; 1987 a. 27; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 366, 394, 403; 1989 a. 31, 334; 1993 a. 98, 196, 227, 316, 451, 474; 1995 a. 77, 201, 268, 292, 440; Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 35, 130, 237, 283; 1999 a. 83, 89, 162; 2001 a. 16 ss. 1966i to 1966n, 4034ze to 4034zh; 2001 a. 38, 61, 109; 2003 a. 32, 50, 326; 2005 a. 22, 264, 277, 387; 2007 a. 20, 45, 116; 2009 a. 137, 258, 260.

18 **SECTION 3.** 62.50 (1e) (cm) of the statutes is created to read:

19 62.50 (1e) (cm) Section 948.045 (3).

20 **SECTION 4.** 301.45 (1d) (b) of the statutes is amended to read:

21 301.45 (1d) (b) "Sex offense" means a violation, or the solicitation, conspiracy,  
22 or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02  
23 (1) or (2), 948.025, 948.045, 948.05, 948.051, 948.055, 948.06, 948.07 (1) to (4),

1 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30,  
2 of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or of s. 940.30 or 940.31 if the victim  
3 was a minor and the person who committed the violation was not the victim's parent.

History: 1993 a. 98, 227; 1995 a. 440 ss. 26 to 49, 54 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283; 1999 a. 9, 89, 156, 186; 2001 a. 38, 96, 109; 2003 a. 50, 53; 2005 a. 25, 253, 277, 344, 432, 434; 2007 a. 20 ss. 3130 to 3132, 9121 (6) (a); 2007 a. 80, 96, 116; 2009 a. 131, 137, 180, 302.

4 **SECTION 5.** 901.08 (1) (b) of the statutes is amended to read:

5 901.08 (1) (b) "Sexual misconduct" includes a violation of s. 940.22 (2), 940.225  
6 (1), (2), or (3), 940.32, 942.08, 942.09, 948.02, 948.025, 948.045, 948.05 (1) or (1m),  
7 948.055 (1), 948.06, 948.07, 948.075, 948.08, 948.09, 948.095, 948.10, or 948.11 (2)  
8 and includes sexual harassment, as defined in s. 111.32 (13).

History: 2009 a. 138.

9 **SECTION 6.** 938.34 (15m) (bm) of the statutes is amended to read:

10 938.34 (15m) (bm) If the juvenile is adjudicated delinquent on the basis of a  
11 violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 940.22  
12 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.05, 948.051,  
13 948.055, 948.06, 948.07, 948.075, 948.08, or 948.085 (2), 948.095, 948.11 (2) (a) or  
14 (am), 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or  
15 of s. 940.30 or 940.31 if the victim was a minor and the juvenile was not the victim's  
16 parent, the court shall require the juvenile to comply with the reporting  
17 requirements under s. 301.45 unless the court determines, after a hearing on a  
18 motion made by the juvenile, that the juvenile is not required to comply under s.  
19 301.45 (1m).

History: 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; 1999 a. 9, 32, 57, 89, 185; 2001 a. 16, 59, 69, 109; 2003 a. 33, 50, 200, 321; 2005 a. 14, 253, 277, 344; 2007 a. 97, 116; 2009 a. 8, 28, 103, 137, 185, 302, 334; 2011 a. 32; s. 13.92 (2) (i).

20 **SECTION 7.** 942.09 (2) (bm) and (cm) of the statutes are renumbered 948.045

21 (2) (b) and (c), and 948.045 (2) (b) (intro.) and (c) are amended to read:

22 948.045 (2) (b) ~~Notwithstanding par. (am), if the person~~ If a child is depicted  
23 nude in a representation or reproduction ~~is a child~~ and the capture, possession,

as renumbered,

(intro)

1 exhibition, or distribution of the representation, or making, possession, exhibition,  
2 or distribution of the reproduction, does not violate s. 948.05 or 948.12, a parent,  
3 guardian, or legal custodian of the child may do any of the following:

4 (c) This subsection does not apply to a person who receives a representation or  
5 reproduction depicting a child from a parent, guardian, or legal custodian of the child  
6 under par. ~~(bm)~~ (b) 2., if the possession, exhibition, or distribution is not for  
7 commercial purposes.

History: 1995 a. 249; 2001 a. 16; 2001 a. 33 ss. 2 to 13; Stats. 2001 s. 942.09; 2001 a. 109; 2007 a. 118.

8 **SECTION 8. 948.045 of the statutes is created to read:**

9 **948.045 Representations depicting nudity; offenses against a child. (1)**

10 In this section:

11 (a) "Captures a representation" has the meaning given in s. 942.09 (1) (a).

12 (am) "Nude or partially nude child" means any child who has less than fully and  
13 opaquely covered genitals, pubic area, or buttocks, any female child who has less  
14 than a fully opaque covering over any portion of a breast below the top of the nipple,  
15 or any male child with covered genitals in a discernibly turgid state.

16 (b) "Nudity" has the meaning given in s. 948.11 (1) (d).

17 (c) "Representation" has the meaning given in s. 942.09 (1) (c).

18 **(2)** (a) Except as provided in pars. (b) and (c), whoever does any of the following  
19 is guilty of a Class I felony:

20 1. Captures a representation that depicts a child nude while that child is nude  
21 in a circumstance in which he or she has a reasonable expectation of privacy.

22 2. Makes a reproduction of a representation that the person knows or has  
23 reason to know was captured in violation of subd. 1. and that depicts the nudity  
24 depicted in the representation captured in violation of subd. 1.

1           3. Possesses, distributes, or exhibits a representation that was captured in  
2 violation of subd. 1. or a reproduction made in violation of subd. 2., if the person  
3 knows or has reason to know that the representation was captured in violation of  
4 subd. 1. or the reproduction was made in violation of subd. 2.

5           (3) (a) Whoever, while present in a locker room, intentionally captures a  
6 representation of a nude or partially nude child while the child is nude or partially  
7 nude in the locker room is guilty of a Class B misdemeanor. This paragraph does not  
8 apply if one of the following applies:

9           1. The child consents to the capture and the actor reasonably believes that the  
10 child is 18 years of age or over when the child gives his or her consent.

11           2. The child's parent, guardian, or legal custodian consents to the capture of the  
12 representation.

13           (b) 1. Whoever intentionally does any of the following is guilty of a Class A  
14 misdemeanor:

15           a. Captures a representation of a nude or partially nude child while the actor  
16 is present in, and the child is nude or partially nude in, the locker room and exhibits  
17 or distributes the representation to another.

18           b. Transmits or broadcasts an image of a nude or partially nude child from a  
19 locker room while the child is nude or partially nude in the locker room.

20           2. This paragraph does not apply if one of the following applies:

21           a. The child consents to the exhibition or distribution of the representation or  
22 the transmission or broadcast of the image and the actor reasonably believes that the  
23 child is 18 years of age or over when the child gives his or her consent.

24           b. The child's parent, guardian, or legal custodian consents to the exhibition,  
25 distribution, transmission, or broadcast.



1           **SECTION 9.** 971.17<sup>✓</sup> (1m) (b) 2m. of the statutes is amended to read:

2           971.17 **(1m)** (b) 2m. If the defendant under sub. (1) is found not guilty by reason  
3 of mental disease or defect for a violation, or for the solicitation, conspiracy, or  
4 attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02  
5 (1) or (2), 948.025, 948.045<sup>✓</sup>, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075,  
6 948.08, 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s.  
7 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or of s. 940.30 or 940.31 if the victim was  
8 a minor and the defendant was not the victim's parent, the court shall require the  
9 defendant to comply with the reporting requirements under s. 301.45 unless the  
10 court determines, after a hearing on a motion made by the defendant, that the  
11 defendant is not required to comply under s. 301.45 (1m).

History: 1975 c. 430; 1977 c. 353; 1977 c. 428 s. 115; 1983 a. 359; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 394; 1989 a. 31, 142, 334, 359; Sup. Ct. Order, 158 Wis. 2d xvii (1990); 1991 a. 39, 189, 269; 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 417, 425, 440, 448; 1997 a. 35, 130, 181, 252, 275; 1999 a. 89; 2001 a. 95, 109; 2003 a. 50; 2005 a. 277, 431; 2007 a. 20 ss. 3875, 9121 (6) (a); 2007 a. 116; 2009 a. 26, 28, 137, 261.

12           **SECTION 10.** 973.048 (2m) of the statutes is amended to read:

13           973.048 **(2m)** If a court imposes a sentence or places a person on probation for  
14 a violation, or for the solicitation, conspiracy or attempt to commit a violation, of s.  
15 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.045<sup>✓</sup>, 948.05,  
16 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or  
17 (am), 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or  
18 of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's  
19 parent, the court shall require the person to comply with the reporting requirements  
20 under s. 301.45 unless the court determines, after a hearing on a motion made by the  
21 person, that the person is not required to comply under s. 301.45 (1m).

History: 1995 a. 440; 1997 a. 130; 1999 a. 89; 2001 a. 109<sup>✓</sup>; 2003 a. 50; 2005 a. 277; 2007 a. 116; 2009 a. 137.

22           **SECTION 11.** 995.50 (2) (d) of the statutes is amended to read:

1           995.50 (2) (d) Conduct that is prohibited under s. 942.09 or 948.045, regardless  
2   of whether there has been a criminal action related to the conduct, and regardless  
3   of the outcome of the criminal action, if there has been a criminal action related to  
4   the conduct.

5   **History:** 1977 c. 176; 1987 a. 399; 1991 a. 294; 2001 a. 33; 2005 a. 155 s. 51; Stats. 2005 s. 995.50.

(END)

**2011-2012 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3238/plins  
CMH:.....

Insert to Insert P. 2

1           Insert A

2           Also under current law, a person commits a misdemeanor if he or she does either  
3           of the following: 1) while present in a locker room, takes a photograph or makes a  
4           motion picture, videotape, or other visual representation of a nude person in the  
5           locker room if the action is without the consent of ~~the nude~~ <sup>that</sup> person or, if ~~the nude~~ <sup>a</sup>  
6           person is known to be under 18 years of age, without the consent of ~~the~~ <sup>that</sup> person's  
7           parent; or 2) exhibits, distributes, transmits, or broadcasts such representation to  
8           another without the consent of the nude person, or, if the nude person is known to  
9           be under 18 years of age, without the consent of the person's parent. <sup>that</sup>

3           Insert 3-20

4           **SECTION 1.** 942.09 (2) (am) of the statutes is renumbered 942.09 (2), and 942.09  
5           (2) (b) and (c), as renumbered, are amended to read:

6           942.09 (2) (b) Makes a reproduction of a representation that the person knows  
7           or has reason to know was captured in violation of subd. 1. par. (a) and that depicts  
8           the nudity depicted in the representation captured in violation of subd. 1. par. (a),  
9           if the person depicted nude in the reproduction did not consent to the making of the  
10          reproduction.

11          (c) Possesses, distributes, or exhibits a representation that was captured in  
12          violation of subd. 1. par. (a) or a reproduction made in violation of subd. 2. par. (b),  
13          if the person knows or has reason to know that the representation was captured in  
14          violation of subd. 1. par. (a) or the reproduction was made in violation of subd. 2. par.  
15          (b), and if the person who is depicted nude in the representation or reproduction did  
16          not consent to the possession, distribution, or exhibition.

INSERT 4-8

History: 1995 a. 249; 2001 a. 16; 2001 a. 33 ss. 2 to 13; Stats. 2001 s. 942.09; 2001 a. 109; 2007 a. 118.

17          **SECTION 2.** 942.09 (5) (a) (intro.) and 1. of the statutes are consolidated,  
18          renumbered 942.09 (5) (a) and amended to read:

1           942.09 (5) (a) Whoever, while present in a locker room, intentionally captures  
2           a representation of a nude or partially nude person while the person is nude or  
3           partially nude in the locker room is guilty of a Class B misdemeanor. This paragraph  
4           does not apply if the person consents to the capture of the representation and one of  
5           the following applies: 1. ~~The person is, or the actor reasonably believes that the~~  
6           ~~person is,~~ 18 years of age or over when the person gives his or her consent.

History: 1995 a. 249; 2001 a. 16; 2001 a. 33 ss. 2 to 13; Stats. 2001 s. 942.09; 2001 a. 109; 2007 a. 118.

7           **SECTION 3.** 942.09 (5) (a) 2. of the statutes is repealed.

8           **SECTION 4.** 942.09 (5) (b) 2. (intro.) and a. of the statutes are consolidated,  
9           renumbered 942.09 (5) (b) 2. and amended to read:

10           942.09 (5) (b) 2. This paragraph does not apply if the person consents to the  
11           exhibition or distribution of the representation or the transmission or broadcast of  
12           the image and one of the following applies: a. ~~The person is, or the actor reasonably~~  
13           ~~believes that the person is,~~ 18 years of age or over when the person gives his or her  
14           consent.

History: 1995 a. 249; 2001 a. 16; 2001 a. 33 ss. 2 to 13; Stats. 2001 s. 942.09; 2001 a. 109; 2007 a. 118.

15           **SECTION 5.** 942.09 (5) (b) 2. b. of the statutes is repealed.

16           insert continues  
17           Insert 4-8

18           **SECTION 6.** 946.82 (4) of the statutes is amended to read:

19           946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961  
20           (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission  
21           of any of the felonies specified in: chs. 945 and 961, subch. V of ch. 551, and ss. 49.49,  
22           134.05, 139.44 (1), 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625,  
23           221.0636, 221.0637, 221.1004, 553.41 (3) and (4), 553.52 (2), 940.01, 940.19 (4) to (6),  
24           940.20, 940.201, 940.203, 940.21, 940.30, 940.302 (2), 940.305, 940.31, 941.20 (2) and

1 (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d), or (2g), 943.011,  
2 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (bf) to (e),  
3 943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), 943.27, 943.28, 943.30, 943.32,  
4 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4)  
5 (bf), (bm), and (c), 943.60, 943.70, 943.76, 943.81, 943.82, 943.83, 943.84, 943.85,  
6 943.86, 943.87, 943.88, 943.89, 943.90, 944.21 (5) (c) and (e), 944.32, 944.33 (2),  
7 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10, 946.11, 946.12, 946.13,  
8 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76, 946.79,  
9 947.015, 948.045, 948.05, 948.051, 948.08, 948.12, and 948.30.

**History:** 1981 c. 280; 1983 a. 438; 1985 a. 104; 1985 a. 236 s. 15; 1987 a. 266 s. 5; 1987 a. 332, 348, 349, 403; 1989 a. 121, 303; 1991 a. 32, 39, 189; 1993 a. 50, 92, 94, 112, 280, 441, 491; 1995 a. 133, 249, 336, 448; 1997 a. 35, 79, 101, 140, 143, 252; 1999 a. 9, 150; 2001 a. 16, 105, 109; 2003 a. 36, 321; 2005 a. 212; 2007 a. 116, 196; 2009 a. 180.

**2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3238/?ins  
CMH:.....

**INS MD**

- 1           **SECTION 1.** 942.09 (5) (b) 1. a. of the statutes is amended to read:
- 2           942.09 **(5)** (b) 1. a. Captures a representation of a nude or partially nude person
- 3           while the actor is present in, and the person is nude or partially nude in, ~~the~~ a locker
- 4           room and exhibits or distributes the representation to another.

**History:** 1995 a. 249; 2001 a. 16; 2001 a. 33 ss. 2 to 13; Stats. 2001 s. 942.09; 2001 a. 109; 2007 a. 118.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

P1  
LRB-3238/dn  
CMH:.....

Date

med

Stephanie:

Please review this draft. I moved the offense ~~against~~ <sup>SP</sup> children to chapter 948, *Crimes Against Children*. In this chapter, other collateral consequences apply to convicted persons such as limitations on teaching licenses and the possibility of being required to provide a biological specimen to the state crime laboratories for DNA analysis.

If someone is found to <sup>have</sup> committed a violation of the new statute, he or she must register as a sex offender. The registry requirement attaches even if the person is convicted of the misdemeanor crimes in sub. (3). Is that okay? In addition, I did not allow the offender to petition for exclusion from the registry requirement based on the offender being under the age of 19 and within four years of the age of the victim (the "Romeo and Juliet" exclusion). Please let me know if you would like me to redraft any of these provisions.

I made this bill a preliminary version because I anticipate you may want to modify it. We can put it into introducible form as soon as you approve it.

Cathlene Hanaman  
Deputy Chief  
Phone: (608) 267-9810  
E-mail: cathlene.hanaman@legis.wisconsin.gov

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3238/P1dn  
CMH:med:jf

November 17, 2011

Stephanie:

Please review this draft. I moved the offense against children to chapter 948, *Crimes Against Children*. In this chapter, other collateral consequences apply to convicted persons such as limitations on teaching licenses and the possibility of being required to provide a biological specimen to the state crime laboratories for DNA analysis.

If someone is found to have committed a violation of the new statute, he or she must register as a sex offender. The registry requirement attaches even if the person is convicted of the misdemeanor crimes in sub. (3). Is that okay? In addition, I did not allow the offender to petition for exclusion from the registry requirement based on the offender being under the age of 19 and within four years of the age of the victim (the "Romeo and Juliet" exclusion). Please let me know if you would like me to redraft any of these provisions.

I made this bill a preliminary version because I anticipate you may want to modify it. We can put it into introducible form as soon as you approve it.

Cathlene Hanaman  
Deputy Chief  
Phone: (608) 267-9810  
E-mail: [cathlene.hanaman@legis.wisconsin.gov](mailto:cathlene.hanaman@legis.wisconsin.gov)





State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-3238/P1  
CMH:med:jf

today (Tues.)

Stamps

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

no changes

5A

Pyen cat

1 AN ACT *to repeal* 942.09 (5) (a) 2. and 942.09 (5) (b) 2. b.; *to renumber and*  
2 *amend* 942.09 (2) (am) and 942.09 (2) (bm) and (cm); *to consolidate,*  
3 *renumber and amend* 942.09 (5) (a) (intro.) and 1. and 942.09 (5) (b) 2. (intro.)  
4 and a.; *to amend* 48.685 (1) (c) 2., 51.20 (13) (ct) 2m., 301.45 (1d) (b), 901.08 (1)  
5 (b), 938.34 (15m) (bm), 942.09 (5) (b) 1. a., 946.82 (4), 971.17 (1m) (b) 2m.,  
6 973.048 (2m) and 995.50 (2) (d); and *to create* 62.50 (1e) (cm) and 948.045 of  
7 the statutes; **relating to:** representations depicting nude children and  
8 requiring sex offender registration.

***Analysis by the Legislative Reference Bureau***

Under current law, with exceptions, a person commits a Class I felony if he or she does any of the following: 1) takes a photograph or makes a motion picture, videotape, or other visual representation of a nude person without that person's consent when that person has a reasonable expectation of privacy; 2) reproduces such a photograph, motion picture, videotape, other visual representation; or 3) possesses, distributes, or exhibits such a representation.

Also under current law, a person commits a misdemeanor if he or she does either of the following: 1) while present in a locker room, takes a photograph or makes a motion picture, videotape, or other visual representation of a nude person in the

locker room if the action is without the consent of that person or, if that person is known to be under 18 years of age, without the consent of that person's parent; or 2) exhibits, distributes, transmits, or broadcasts such a representation to another without the consent of the nude person, or, if the nude person is known to be under 18 years of age, without the consent of the person's parent. In addition to the felony or misdemeanor conviction, the court may order a person to register with the Department of Corrections (DOC) as a sex offender if the court determines that the underlying conduct was sexually motivated and that registration would be in the interest of public protection. Under this bill, if a person commits either the felony or the misdemeanor and the victim has not attained the age of 18, the court must order the person to register with DOC as a sex offender.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           SECTION 1. 48.685 (1) (c) 2. of the statutes is amended to read:

2           48.685 (1) (c) 2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19  
3           (2), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295,  
4           942.09 (2), 948.02 (1) or (2), 948.025, 948.03 (2), 948.045 (2), 948.05, 948.051,  
5           948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13,  
6           948.21 (1), 948.30, or 948.53.

7           SECTION 2. 51.20 (13) (ct) 2m. of the statutes is amended to read:

8           51.20 (13) (ct) 2m. If the subject individual is before the court on a petition filed  
9           under a court order under s. 938.30 (5) (c) 1. and is found to have committed a  
10          violation, or to have solicited, conspired, or attempted to commit a violation, of s.  
11          940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.045, 948.05,  
12          948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or  
13          (am), 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or  
14          of s. 940.30 or 940.31 if the victim was a minor and the subject individual was not  
15          the victim's parent, the court shall require the individual to comply with the

1 reporting requirements under s. 301.45 unless the court determines, after a hearing  
2 on a motion made by the individual, that the individual is not required to comply  
3 under s. 301.45 (1m).

4 **SECTION 3.** 62.50 (1e) (cm) of the statutes is created to read:

5 62.50 (1e) (cm) Section 948.045 (3).

6 **SECTION 4.** 301.45 (1d) (b) of the statutes is amended to read:

7 301.45 (1d) (b) "Sex offense" means a violation, or the solicitation, conspiracy,  
8 or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02  
9 (1) or (2), 948.025, 948.045, 948.05, 948.051, 948.055, 948.06, 948.07 (1) to (4),  
10 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30,  
11 of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or of s. 940.30 or 940.31 if the victim  
12 was a minor and the person who committed the violation was not the victim's parent.

13 **SECTION 5.** 901.08 (1) (b) of the statutes is amended to read:

14 901.08 (1) (b) "Sexual misconduct" includes a violation of s. 940.22 (2), 940.225  
15 (1), (2), or (3), 940.32, 942.08, 942.09, 948.02, 948.025, 948.045, 948.05 (1) or (1m),  
16 948.055 (1), 948.06, 948.07, 948.075, 948.08, 948.09, 948.095, 948.10, or 948.11 (2)  
17 and includes sexual harassment, as defined in s. 111.32 (13).

18 **SECTION 6.** 938.34 (15m) (bm) of the statutes is amended to read:

19 938.34 (15m) (bm) If the juvenile is adjudicated delinquent on the basis of a  
20 violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 940.22  
21 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.045, 948.05, 948.051,  
22 948.055, 948.06, 948.07, 948.075, 948.08, or 948.085 (2), 948.095, 948.11 (2) (a) or  
23 (am), 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or  
24 of s. 940.30 or 940.31 if the victim was a minor and the juvenile was not the victim's  
25 parent, the court shall require the juvenile to comply with the reporting

1 requirements under s. 301.45 unless the court determines, after a hearing on a  
2 motion made by the juvenile, that the juvenile is not required to comply under s.  
3 301.45 (1m).

4 **SECTION 7.** 942.09 (2) (am) of the statutes is renumbered 942.09 (2), and 942.09  
5 (2) (b) and (c), as renumbered, are amended to read:

6 942.09 (2) (b) Makes a reproduction of a representation that the person knows  
7 or has reason to know was captured in violation of ~~subd. 1. par. (a)~~ and that depicts  
8 the nudity depicted in the representation captured in violation of ~~subd. 1. par. (a)~~,  
9 if the person depicted nude in the reproduction did not consent to the making of the  
10 reproduction.

11 (c) Possesses, distributes, or exhibits a representation that was captured in  
12 violation of ~~subd. 1. par. (a)~~ or a reproduction made in violation of ~~subd. 2. par. (b)~~,  
13 if the person knows or has reason to know that the representation was captured in  
14 violation of ~~subd. 1. par. (a)~~ or the reproduction was made in violation of ~~subd. 2. par.~~  
15 ~~(b)~~, and if the person who is depicted nude in the representation or reproduction did  
16 not consent to the possession, distribution, or exhibition.

17 **SECTION 8.** 942.09 (2) (bm) and (cm) of the statutes are renumbered 948.045  
18 (2) (b) and (c), and 948.045 (2) (b) (intro.) and (c), as renumbered, are amended to  
19 read:

20 948.045 (2) (b) (intro.) ~~Notwithstanding par. (am), if the person~~ If a child is  
21 depicted nude in a representation or reproduction is a child and the capture,  
22 possession, exhibition, or distribution of the representation, or making, possession,  
23 exhibition, or distribution of the reproduction, does not violate s. 948.05 or 948.12,  
24 a parent, guardian, or legal custodian of the child may do any of the following:

1 (c) This subsection does not apply to a person who receives a representation or  
2 reproduction depicting a child from a parent, guardian, or legal custodian of the child  
3 under par. ~~(bm)~~ (b) 2., if the possession, exhibition, or distribution is not for  
4 commercial purposes.

5 **SECTION 9.** 942.09 (5) (a) (intro.) and 1. of the statutes are consolidated,  
6 renumbered 942.09 (5) (a) and amended to read:

7 942.09 (5) (a) Whoever, while present in a locker room, intentionally captures  
8 a representation of a nude or partially nude person while the person is nude or  
9 partially nude in the locker room is guilty of a Class B misdemeanor. This paragraph  
10 does not apply if the person consents to the capture of the representation and one of  
11 the following applies: ~~1. The person is, or the actor reasonably believes that the~~  
12 ~~person is,~~ 18 years of age or over when the person gives his or her consent.

13 **SECTION 10.** 942.09 (5) (a) 2. of the statutes is repealed.

14 **SECTION 11.** 942.09 (5) (b) 1. a. of the statutes is amended to read:

15 942.09 (5) (b) 1. a. Captures a representation of a nude or partially nude person  
16 while the actor is present in, and the person is nude or partially nude in, ~~the~~ a locker  
17 room and exhibits or distributes the representation to another.

18 **SECTION 12.** 942.09 (5) (b) 2. (intro.) and a. of the statutes are consolidated,  
19 renumbered 942.09 (5) (b) 2. and amended to read:

20 942.09 (5) (b) 2. This paragraph does not apply if the person consents to the  
21 exhibition or distribution of the representation or the transmission or broadcast of  
22 the image and one of the following applies: ~~a. The person is, or the actor reasonably~~  
23 ~~believes that the person is,~~ 18 years of age or over when the person gives his or her  
24 consent.

25 **SECTION 13.** 942.09 (5) (b) 2. b. of the statutes is repealed.

✓  
1           **SECTION 14.** 946.82 (4) of the statutes is amended to read:

2           946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961  
3 (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission  
4 of any of the felonies specified in: chs. 945 and 961, subch. V of ch. 551, and ss. 49.49,  
5 134.05, 139.44 (1), 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625,  
6 221.0636, 221.0637, 221.1004, 553.41 (3) and (4), 553.52 (2), 940.01, 940.19 (4) to (6),  
7 940.20, 940.201, 940.203, 940.21, 940.30, 940.302 (2), 940.305, 940.31, 941.20 (2) and  
8 (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d), or (2g), 943.011,  
9 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (bf) to (e),  
10 943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), 943.27, 943.28, 943.30, 943.32,  
11 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4)  
12 (bf), (bm), and (c), 943.60, 943.70, 943.76, 943.81, 943.82, 943.83, 943.84, 943.85,  
13 943.86, 943.87, 943.88, 943.89, 943.90, 944.21 (5) (c) and (e), 944.32, 944.33 (2),  
14 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10, 946.11, 946.12, 946.13,  
15 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76, 946.79,  
16 947.015, 948.045, 948.05, 948.051, 948.08, 948.12, and 948.30.

✓  
17           **SECTION 15.** 948.045 of the statutes is created to read:

18           **948.045 Representations depicting nudity; offenses against a child. (1)**

19           In this section:

20           (a) "Captures a representation" has the meaning given in s. 942.09 (1) (a).

21           (am) "Nude or partially nude child" means any child who has less than fully and  
22 opaquely covered genitals, pubic area, or buttocks, any female child who has less  
23 than a fully opaque covering over any portion of a breast below the top of the nipple,  
24 or any male child with covered genitals in a discernibly turgid state.

25           (b) "Nudity" has the meaning given in s. 948.11 (1) (d).

1 (c) "Representation" has the meaning given in s. 942.09 (1) (c).

2 (2) (a) Except as provided in pars. (b) and (c), whoever does any of the following  
3 is guilty of a Class I felony:

4 1. Captures a representation that depicts a child nude while that child is nude  
5 in a circumstance in which he or she has a reasonable expectation of privacy.

6 2. Makes a reproduction of a representation that the person knows or has  
7 reason to know was captured in violation of subd. 1. and that depicts the nudity  
8 depicted in the representation captured in violation of subd. 1.

9 3. Possesses, distributes, or exhibits a representation that was captured in  
10 violation of subd. 1. or a reproduction made in violation of subd. 2., if the person  
11 knows or has reason to know that the representation was captured in violation of  
12 subd. 1. or the reproduction was made in violation of subd. 2.

13 (3) (a) Whoever, while present in a locker room, intentionally captures a  
14 representation of a nude or partially nude child while the child is nude or partially  
15 nude in the locker room is guilty of a Class B misdemeanor. This paragraph does not  
16 apply if one of the following applies:

17 1. The child consents to the capture and the actor reasonably believes that the  
18 child is 18 years of age or over when the child gives his or her consent.

19 2. The child's parent, guardian, or legal custodian consents to the capture of the  
20 representation.

21 (b) 1. Whoever intentionally does any of the following is guilty of a Class A  
22 misdemeanor:

23 a. Captures a representation of a nude or partially nude child while the actor  
24 is present in, and the child is nude or partially nude in, a locker room and exhibits  
25 or distributes the representation to another.

1           b. Transmits or broadcasts an image of a nude or partially nude child from a  
2 locker room while the child is nude or partially nude in the locker room.

3           2. This paragraph does not apply if one of the following applies:

4           a. The child consents to the exhibition or distribution of the representation or  
5 the transmission or broadcast of the image and the actor reasonably believes that the  
6 child is 18 years of age or over when the child gives his or her consent.

7           b. The child's parent, guardian, or legal custodian consents to the exhibition,  
8 distribution, transmission, or broadcast.

9           **SECTION 16.** 971.17<sup>✓</sup> (1m) (b) 2m. of the statutes is amended to read:

10           971.17 **(1m)** (b) 2m. If the defendant under sub. (1) is found not guilty by reason  
11 of mental disease or defect for a violation, or for the solicitation, conspiracy, or  
12 attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02  
13 (1) or (2), 948.025, 948.045, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075,  
14 948.08, 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s.  
15 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or of s. 940.30 or 940.31 if the victim was  
16 a minor and the defendant was not the victim's parent, the court shall require the  
17 defendant to comply with the reporting requirements under s. 301.45 unless the  
18 court determines, after a hearing on a motion made by the defendant, that the  
19 defendant is not required to comply under s. 301.45 (1m).

20           **SECTION 17.** 973.048<sup>✓</sup> (2m) of the statutes is amended to read:

21           973.048 **(2m)** If a court imposes a sentence or places a person on probation for  
22 a violation, or for the solicitation, conspiracy or attempt to commit a violation, of s.  
23 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.045, 948.05,  
24 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or  
25 (am), 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or



1 of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's  
2 parent, the court shall require the person to comply with the reporting requirements  
3 under s. 301.45 unless the court determines, after a hearing on a motion made by the  
4 person, that the person is not required to comply under s. 301.45 (1m).

5 **SECTION 18.** 995.50<sup>✓</sup> (2) (d) of the statutes is amended to read:

6 995.50 (2) (d) Conduct that is prohibited under s. 942.09 or 948.045, regardless  
7 of whether there has been a criminal action related to the conduct, and regardless  
8 of the outcome of the criminal action, if there has been a criminal action related to  
9 the conduct.

10 (END)

**Barman, Mike**

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**From:** Kundert, Stephanie  
**Sent:** Tuesday, January 10, 2012 2:00 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 11-3238/1 Topic: Capturing images of nude child

Please Jacket LRB 11-3238/1 for the ASSEMBLY. Thank you!



State of Wisconsin  
2011 - 2012 LEGISLATURE

*Monday if possible*

2011 BILL



LRB-3238/f<sup>2</sup>  
CMH:med:rs

*stays*

*reyn car*

1 AN ACT **to repeal** 942.09 (5) (a) 2. and 942.09 (5) (b) 2. b.; **to renumber and**  
2 **amend** 942.09 (2) (am) and 942.09 (2) (bm) and (cm); **to consolidate,**  
3 **renumber and amend** 942.09 (5) (a) (intro.) and 1. and 942.09 (5) (b) 2. (intro.)  
4 and a.; **to amend** 48.685 (1) (c) 2., 51.20 (13) (ct) 2m., 301.45 (1d) (b), 901.08 (1)  
5 (b), 938.34 (15m) (bm), 942.09 (5) (b) 1. a., 946.82 (4), 971.17 (1m) (b) 2m.,  
6 973.048 (2m) and 995.50 (2) (d); and **to create** 62.50 (1e) (cm) and 948.045 of  
7 the statutes; **relating to:** representations depicting nude children and  
8 requiring sex offender registration *for adults who commit the offense*

***Analysis by the Legislative Reference Bureau***

Under current law, with exceptions, a person commits a Class I felony if he or she does any of the following: 1) takes a photograph or makes a motion picture, videotape, or other visual representation of a nude person without that person's consent when that person has a reasonable expectation of privacy; 2) reproduces such a photograph, motion picture, videotape, other visual representation; or 3) possesses, distributes, or exhibits such a representation.

Also under current law, a person commits a misdemeanor if he or she does either of the following: 1) ~~while present in a locker room,~~ takes a photograph or makes a motion picture, videotape, or other visual representation of a nude person in the

*No 9*

## BILL

- 2 -

no 9

who is at least  
18  
years of age  
and not a high  
school studentLRB-3238/1  
CMH:med:rs

locker room if the action is without the consent of that person or, if that person is known to be under 18 years of age, without the consent of that person's parent; or 2) exhibits, distributes, transmits, or broadcasts such a representation to another without the consent of the nude person, or, if the nude person is known to be under 18 years of age, without the consent of the person's parent. In addition to the felony or misdemeanor conviction, the court may order a person to register with the Department of Corrections (DOC) as a sex offender if the court determines that the underlying conduct was sexually motivated and that registration would be in the interest of public protection. Under this bill, if a person commits either the felony or the misdemeanor and the victim has not attained the age of 18, the court must order the person to register with DOC as a sex offender.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

penalty  
for  
the

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

**SECTION 1.** 48.685 (1) (c) 2. of the statutes is amended to read:

48.685 (1) (c) 2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 942.09 (2), 948.02 (1) or (2), 948.025, 948.03 (2), 948.045 (2), 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1), 948.30, or 948.53.

**SECTION 2.** 51.20 (13) (ct) 2m. of the statutes is amended to read:

51.20 (13) (ct) 2m. If the subject individual is before the court on a petition filed under a court order under s. 938.30 (5) (c) 1. and is found to have committed a violation, or to have solicited, conspired, or attempted to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.045, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or of s. 940.30 or 940.31 if the victim was a minor and the subject individual was not the victim's parent, the court shall require the individual to comply with the

or of s. 948.045 if the subject individual was at least 18 years of age and was not a high school student,

# BILL

reporting requirements under s. 301.45 unless the court determines, after a hearing on a motion made by the individual, that the individual is not required to comply under s. 301.45 (1m).

**SECTION 3.** 62.50 (1e) (cm) of the statutes is created to read:

62.50 (1e) (cm) Section 948.045 (3).

**SECTION 4.** 301.45 (1d) (b) of the statutes is amended to read:

301.45 (1d) (b) "Sex offense" means a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.045, 948.05, 948.051, 948.055, 948.06, 948.07 (1) to (4), 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, ~~or~~ of s. 940.30 or 940.31 if the victim was a minor and the person who committed the violation was not the victim's parent/

**SECTION 5.** 901.08 (1) (b) of the statutes is amended to read:

901.08 (1) (b) "Sexual misconduct" includes a violation of s. 940.22 (2), 940.225 (1), (2), or (3), 940.32, 942.08, 942.09, 948.02, 948.025, 948.045, 948.05 (1) or (1m), 948.055 (1), 948.06, 948.07, 948.075, 948.08, 948.09, 948.095, 948.10, or 948.11 (2) and includes sexual harassment, as defined in s. 111.32 (13).

**SECTION 6.** 938.34 (15m) (bm) of the statutes is amended to read:

938.34 (15m) (bm) If the juvenile is adjudicated delinquent on the basis of a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.045, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, or 948.085 (2), 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, ~~or~~ of s. 940.30 or 940.31 if the victim was a minor and the juvenile was not the victim's parent, the court shall require the juvenile to comply with the reporting

For of S. 948.045 if the person who committed the  
murder was at least 18 years of age and was not a high school student

~~1) or of \$ 948.045 if the juvenile who committed the crime was not a high school~~

**BILL****SECTION 6**

1 requirements under s. 301.45 unless the court determines, after a hearing on a  
2 motion made by the juvenile, that the juvenile is not required to comply under s.  
3 301.45 (1m).

4 **SECTION 7.** 942.09 (2) (am) of the statutes is renumbered 942.09 (2), and 942.09

5 (2) (b) and (c), as renumbered, are amended to read:

6 942.09 (2) (b) Makes a reproduction of a representation that the person knows  
7 or has reason to know was captured in violation of ~~subd. 1. par. (a)~~ and that depicts  
8 the nudity depicted in the representation captured in violation of ~~subd. 1. par. (a)~~,  
9 if the person depicted nude in the reproduction did not consent to the making of the  
10 reproduction.

11 (c) Possesses, distributes, or exhibits a representation that was captured in  
12 violation of ~~subd. 1. par. (a)~~ or a reproduction made in violation of ~~subd. 2. par. (b)~~,  
13 if the person knows or has reason to know that the representation was captured in  
14 violation of ~~subd. 1. par. (a)~~ or the reproduction was made in violation of ~~subd. 2. par.~~  
15 ~~(b)~~, and if the person who is depicted nude in the representation or reproduction did  
16 not consent to the possession, distribution, or exhibition.

17 **SECTION 8.** 942.09 (2) (bm) and (cm) of the statutes are renumbered 948.045

18 (2) (b) and (c), and 948.045 (2) (b) (intro.) and (c), as renumbered, are amended to  
19 read:

20 948.045 (2) (b) (intro.) ~~Notwithstanding par. (am), if the person~~ If a child is  
21 depicted nude in a representation or reproduction is a child and the capture,  
22 possession, exhibition, or distribution of the representation, or making, possession,  
23 exhibition, or distribution of the reproduction, does not violate s. 948.05 or 948.12,  
24 a parent, guardian, or legal custodian of the child may do any of the following:

**BILL**

1 (c) This subsection does not apply to a person who receives a representation or  
2 reproduction depicting a child from a parent, guardian, or legal custodian of the child  
3 under par. ~~(bm)~~ (b) 2., if the possession, exhibition, or distribution is not for  
4 commercial purposes.

5 **SECTION 9.** 942.09 (5) (a) (intro.) and 1. of the statutes are consolidated,  
6 renumbered 942.09 (5) (a) and amended to read:

7 942.09 (5) (a) Whoever, while present in a locker room, intentionally captures  
8 a representation of a nude or partially nude person while the person is nude or  
9 partially nude in the locker room is guilty of a Class B misdemeanor. This paragraph  
10 does not apply if the person consents to the capture of the representation and one of  
11 the following applies: 1. The person is, or the actor reasonably believes that the  
12 person is, 18 years of age or over when the person gives his or her consent.

13 **SECTION 10.** 942.09 (5) (a) 2. of the statutes is repealed.

14 **SECTION 11.** 942.09 (5) (b) 1. a. of the statutes is amended to read:

15 942.09 (5) (b) 1. a. Captures a representation of a nude or partially nude person  
16 while the actor is present in, and the person is nude or partially nude in, ~~the a~~ a locker  
17 room and exhibits or distributes the representation to another.

18 **SECTION 12.** 942.09 (5) (b) 2. (intro.) and a. of the statutes are consolidated,  
19 renumbered 942.09 (5) (b) 2. and amended to read:

20 942.09 (5) (b) 2. This paragraph does not apply if the person consents to the  
21 exhibition or distribution of the representation or the transmission or broadcast of  
22 the image and one of the following applies: a. The person is, or the actor reasonably  
23 believes that the person is, 18 years of age or over when the person gives his or her  
24 consent.

25 **SECTION 13.** 942.09 (5) (b) 2. b. of the statutes is repealed.

**BILL****SECTION 14**

1       **SECTION 14.** 946.82 (4) of the statutes is amended to read:

2       946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961

3       (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission  
4       of any of the felonies specified in: chs. 945 and 961, subch. V of ch. 551, and ss. 49.49,  
5       134.05, 139.44 (1), 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625,  
6       221.0636, 221.0637, 221.1004, 553.41 (3) and (4), 553.52 (2), 940.01, 940.19 (4) to (6),  
7       940.20, 940.201, 940.203, 940.21, 940.30, 940.302 (2), 940.305, 940.31, 941.20 (2) and  
8       (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d), or (2g), 943.011,  
9       943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (bf) to (e),  
10      943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), 943.27, 943.28, 943.30, 943.32,  
11      943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4)  
12      (bf), (bm), and (c), 943.60, 943.70, 943.76, 943.81, 943.82, 943.83, 943.84, 943.85,  
13      943.86, 943.87, 943.88, 943.89, 943.90, 944.21 (5) (c) and (e), 944.32, 944.33 (2),  
14      944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10, 946.11, 946.12, 946.13,  
15      946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76, 946.79,  
16      947.015, 948.045, 948.05, 948.051, 948.08, 948.12, and 948.30.

17      **SECTION 15.** 948.045 of the statutes is created to read:

18      **948.045 Representations depicting nudity; offenses against a child. (1)**

19      In this section:

20      (a) "Captures a representation" has the meaning given in s. 942.09 (1) (a).

21      (am) "Nude or partially nude child" means any child who has less than fully and  
22      opaquely covered genitals, pubic area, or buttocks, any female child who has less  
23      than a fully opaque covering over any portion of a breast below the top of the nipple,  
24      or any male child with covered genitals in a discernibly turgid state.

25      (b) "Nudity" has the meaning given in s. 948.11 (1) (d).



**BILL**

1 (c) "Representation" has the meaning given in s. 942.09 (1) (c).

2 (2) (a) Except as provided in pars. (b) and (c), whoever does any of the following  
3 is guilty of a Class I felony:

4 1. Captures a representation that depicts a child nude while that child is nude  
5 in a circumstance in which he or she has a reasonable expectation of privacy.

6 2. Makes a reproduction of a representation that the person knows or has  
7 reason to know was captured in violation of subd. 1. and that depicts the nudity  
8 depicted in the representation captured in violation of subd. 1.

9 3. Possesses, distributes, or exhibits a representation that was captured in  
10 violation of subd. 1. or a reproduction made in violation of subd. 2., if the person  
11 knows or has reason to know that the representation was captured in violation of  
12 subd. 1. or the reproduction was made in violation of subd. 2.

13 (3) (a) Whoever, while present in a locker room, intentionally captures a  
14 representation of a nude or partially nude child while the child is nude or partially  
15 nude in the locker room is guilty of a Class B misdemeanor. This paragraph does not  
16 apply if one of the following applies:

17 1. The child consents to the capture and the actor reasonably believes that the  
18 child is 18 years of age or over when the child gives his or her consent.

19 2. The child's parent, guardian, or legal custodian consents to the capture of the  
20 representation.

21 (b) 1. Whoever intentionally does any of the following is guilty of a Class A  
22 misdemeanor:

23 a. Captures a representation of a nude or partially nude child while the actor  
24 is present in, and the child is nude or partially nude in, a locker room and exhibits  
25 or distributes the representation to another.

**BILL**

b. Transmits or broadcasts an image of a nude or partially nude child from a locker room while the child is nude or partially nude in the locker room.

2. This paragraph does not apply if one of the following applies:

a. The child consents to the exhibition or distribution of the representation or the transmission or broadcast of the image and the actor reasonably believes that the child is 18 years of age or over when the child gives his or her consent.

b. The child's parent, guardian, or legal custodian consents to the exhibition, distribution, transmission, or broadcast.

**SECTION 16.** 971.17 (1m) (b) 2m. of the statutes is amended to read:

971.17 (1m) (b) 2m. If the defendant under sub. (1) is found not guilty by reason of mental disease or defect for a violation, or for the solicitation, conspiracy, or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.045, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, ~~or~~ of s. 940.30 or 940.31 if the victim was a minor and the defendant was not the victim's parent, the court shall require the defendant to comply with the reporting requirements under s. 301.45 unless the court determines, after a hearing on a motion made by the defendant, that the defendant is not required to comply under s. 301.45 (1m).

**SECTION 17.** 973.048 (2m) of the statutes is amended to read:

973.048 (2m) If a court imposes a sentence or places a person on probation for a violation, or for the solicitation, conspiracy or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.045, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, ~~or~~

*or of s. 948.045 if the defendant was at least 18 years of age and was not a high school student,*

**BILL**

or of s. 948.045, if the person  
was at least 18 years of age and was not a high school  
student  
1 of s. 940.30 or 940.31 if the victim was a minor and the person was not the victim's  
2 parent, the court shall require the person to comply with the reporting requirements  
3 under s. 301.45 unless the court determines, after a hearing on a motion made by the  
4 person, that the person is not required to comply under s. 301.45 (1m).

5 **SECTION 18.** 995.50 (2) (d) of the statutes is amended to read:

6 995.50 (2) (d) Conduct that is prohibited under s. 942.09 or 948.045, regardless  
7 of whether there has been a criminal action related to the conduct, and regardless  
8 of the outcome of the criminal action, if there has been a criminal action related to  
9 the conduct.

10 (END)

## **Hanaman, Cathlene**

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**From:** Kundert, Stephanie  
**Sent:** Friday, February 03, 2012 12:51 PM  
**To:** Hanaman, Cathlene  
**Subject:** LRB 3238

Hi Cathlene,

At last, it is Friday! ☺

I just spoke with Senator Kedzie's office about LRB 3238/2 and I am afraid they've requested a couple more minor changes before they would be willing to take the lead on this in the Senate. They spoke with the Walworth County District Attorney about making these changes.

Under the analysis portion of the bill draft, could you please change the last sentence to "Under this bill, if a person who is at least **21** years of age commits the felony and the victim has not attained the age of **16**, the court must order the person to register with the DOC as a sex offender?"

Hopefully, that will be it for the changes. Thanks so much again for all of your help!

Stephanie

***Stephanie L. Kundert***  
Office of Representative Joel Kleefisch  
Member, Joint Committee on Finance  
38th Assembly District  
321 East, State Capitol  
Madison, WI 53708  
608.266.8552  
[stephanie.kundert@legis.wisconsin.gov](mailto:stephanie.kundert@legis.wisconsin.gov)



State of Wisconsin  
2011 - 2012 LEGISLATURE



3

LRB-3238/2

CMH:med:rs

Today please

Stop

2011 BILL

GA

ref car

1 AN ACT *to renumber and amend* 942.09 (2) (am) and 942.09 (2) (bm) and (cm);  
2 *to amend* 48.685 (1) (c) 2., 51.20 (13) (ct) 2m., 301.45 (1d) (b), 901.08 (1) (b),  
3 946.82 (4), 971.17 (1m) (b) 2m., 973.048 (2m) and 995.50 (2) (d); and *to create*  
4 948.045 of the statutes; **relating to:** representations depicting nude children  
5 and requiring sex offender registration for adults who commit the offense.

against a child who is

under the age  
of 16

**Analysis by the Legislative Reference Bureau**

Under current law, with exceptions, a person commits a Class I felony if he or she does any of the following: 1) takes a photograph or makes a motion picture, videotape, or other visual representation of a nude person without that person's consent when that person has a reasonable expectation of privacy; 2) reproduces such a photograph, motion picture, videotape, other visual representation; or 3) possesses, distributes, or exhibits such a representation. In addition to the penalty for the felony conviction, the court may order a person to register with the Department of Corrections (DOC) as a sex offender if the court determines that the underlying conduct was sexually motivated and that registration would be in the interest of public protection. Under this bill, if a person who is at least 16 years of age and not a high school student commits the felony and the victim has not attained the age of 18, the court must order the person to register with DOC as a sex offender.

**BILL**

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SECTION 1.** 48.685 (1) (c) 2. of the statutes is amended to read:

48.685 (1) (c) 2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 942.09 (2), 948.02 (1) or (2), 948.025, 948.03 (2), 948.045 (2), 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1), 948.30, or 948.53.

**SECTION 2.** 51.20 (13) (ct) 2m. of the statutes is amended to read:

51.20 (13) (ct) 2m. If the subject individual is before the court on a petition filed under a court order under s. 938.30 (5) (c) 1. and is found to have committed a violation, or to have solicited, conspired, or attempted to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), ~~944.06~~, 948.02 (1) or (2), 948.025, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, ~~or~~ of s. 940.30 or 940.31 if the victim was a minor and the subject individual was not the victim's parent, or of s. 948.045 if the subject individual was at least <sup>21</sup> years of age and was not a high school student. the court shall require the individual to comply with the reporting requirements under s. 301.45 unless the court determines, after a hearing on a motion made by the individual, that the individual is not required to comply under s. 301.45 (1m).

**SECTION 3.** 301.45 (1d) (b) of the statutes is amended to read:

## BILL

*the victim had not attained the age of 16 years and*

301.45 (1d) (b) "Sex offense" means a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.051, 948.055, 948.06, 948.07 (1) to (4), 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, ~~or~~ of s. 940.30 or 940.31 if the victim was a minor and the person who committed the violation was not the victim's parent, or of s. 948.045 if the person who committed the violation was at least 16 years of age and was not a high school student. 21

SECTION 4. 901.08 (1) (b) of the statutes is amended to read:

901.08 (1) (b) "Sexual misconduct" includes a violation of s. 940.22 (2), 940.225 (1), (2), or (3), 940.32, 942.08, 942.09, 948.02, 948.025, 948.045, 948.05 (1) or (1m), 948.055 (1), 948.06, 948.07, 948.075, 948.08, 948.09, 948.095, 948.10, or 948.11 (2) and includes sexual harassment, as defined in s. 111.32 (13).

SECTION 5. 942.09 (2) (am) of the statutes is renumbered 942.09 (2), and 942.09 (2) (b) and (c), as renumbered, are amended to read:

942.09 (2) (b) Makes a reproduction of a representation that the person knows or has reason to know was captured in violation of ~~subd. 1. par. (a)~~ and that depicts the nudity depicted in the representation captured in violation of ~~subd. 1. par. (a)~~, if the person depicted nude in the reproduction did not consent to the making of the reproduction.

(c) Possesses, distributes, or exhibits a representation that was captured in violation of ~~subd. 1. par. (a)~~ or a reproduction made in violation of ~~subd. 2. par. (b)~~, if the person knows or has reason to know that the representation was captured in violation of ~~subd. 1. par. (a)~~ or the reproduction was made in violation of ~~subd. 2. par.~~

**BILL****SECTION 5**

1 (b), and if the person who is depicted nude in the representation or reproduction did  
2 not consent to the possession, distribution, or exhibition.

3 **SECTION 6.** 942.09 (2) (bm) and (cm) of the statutes are renumbered 948.045  
4 (2) (b) and (c), and 948.045 (2) (b) (intro.) and (c), as renumbered, are amended to  
5 read:

6 948.045 (2) (b) (intro.) ~~Notwithstanding par. (am), if the person~~ If a child is  
7 depicted nude in a representation or reproduction ~~is a child~~ and the capture,  
8 possession, exhibition, or distribution of the representation, or making, possession,  
9 exhibition, or distribution of the reproduction, does not violate s. 948.05 or 948.12,  
10 a parent, guardian, or legal custodian of the child may do any of the following:

11 (c) This subsection does not apply to a person who receives a representation or  
12 reproduction depicting a child from a parent, guardian, or legal custodian of the child  
13 under par. ~~(bm)~~ (b) 2., if the possession, exhibition, or distribution is not for  
14 commercial purposes.

15 **SECTION 7.** 946.82 (4) of the statutes is amended to read:

16 946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961  
17 (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission  
18 of any of the felonies specified in: chs. 945 and 961, subch. V of ch. 551, and ss. 49.49,  
19 134.05, 139.44 (1), 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625,  
20 221.0636, 221.0637, 221.1004, 553.41 (3) and (4), 553.52 (2), 940.01, 940.19 (4) to (6),  
21 940.20, 940.201, 940.203, 940.21, 940.30, 940.302 (2), 940.305, 940.31, 941.20 (2) and  
22 (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d), or (2g), 943.011,  
23 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (bf) to (e),  
24 943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), 943.27, 943.28, 943.30, 943.32,  
25 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4)



**BILL**

(bf), (bm), and (c), 943.60, 943.70, 943.76, 943.81, 943.82, 943.83, 943.84, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 944.21 (5) (c) and (e), 944.32, 944.33 (2), 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10, 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76, 946.79, 947.015, 948.045, 948.05, 948.051, 948.08, 948.12, and 948.30.

**SECTION 8.** 948.045 of the statutes is created to read:

**948.045 Representations depicting nudity; offenses against a child. (1)**

In this section:

(a) "Captures a representation" has the meaning given in s. 942.09 (1) (a).

(am) "Nude or partially nude child" means any child who has less than fully and opaquely covered genitals, pubic area, or buttocks, any female child who has less than a fully opaque covering over any portion of a breast below the top of the nipple, or any male child with covered genitals in a discernibly turgid state.

(b) "Nudity" has the meaning given in s. 948.11 (1) (d).

(c) "Representation" has the meaning given in s. 942.09 (1) (c).

**(2)** (a) Except as provided in pars. (b) and (c), whoever does any of the following is guilty of a Class I felony:

1. Captures a representation that depicts a child nude while that child is nude in a circumstance in which he or she has a reasonable expectation of privacy.

2. Makes a reproduction of a representation that the person knows or has reason to know was captured in violation of subd. 1. and that depicts the nudity depicted in the representation captured in violation of subd. 1.

3. Possesses, distributes, or exhibits a representation that was captured in violation of subd. 1. or a reproduction made in violation of subd. 2., if the person

**BILL**

1 knows or has reason to know that the representation was captured in violation of  
2 subd. 1. or the reproduction was made in violation of subd. 2.

3 **SECTION 9.** 971.17 (1m) (b) 2m. of the statutes is amended to read:

4 971.17 (1m) (b) 2m. If the defendant under sub. (1) is found not guilty by reason  
5 of mental disease or defect for a violation, or for the solicitation, conspiracy, or  
6 attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02  
7 (1) or (2), 948.025, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08,  
8 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s. 940.302 (2)  
9 if s. 940.302 (2) (a) 1. b. applies, ~~or~~ of s. 940.30 or 940.31 if the victim was a minor and  
10 the defendant was not the victim's parent, or of s. 948.045 if the defendant was at  
11 least <sup>16</sup> years of age and was not a high school student, the court shall require the  
12 defendant to comply with the reporting requirements under s. 301.45 unless the  
13 court determines, after a hearing on a motion made by the defendant, that the  
14 defendant is not required to comply under s. 301.45 (1m).

15 **SECTION 10.** 973.048 (2m) of the statutes is amended to read:

16 973.048 (2m) If a court imposes a sentence or places a person on probation for  
17 a violation, or for the solicitation, conspiracy or attempt to commit a violation, of s.  
18 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.051,  
19 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am),  
20 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, ~~or~~ of s.  
21 940.30 or 940.31 if the victim was a minor and the person was not the victim's parent,  
22 or of s. 948.045, if the person was at least <sup>16</sup> years of age and was not a high school  
23 student, the court shall require the person to comply with the reporting  
24 requirements under s. 301.45 unless the court determines, after a hearing on a

*the victim had not attained the age of 16 years and*

**BILL**

1 motion made by the person, that the person is not required to comply under s. 301.45  
2 (1m).

3 **SECTION 11.** 995.50 (2) (d) of the statutes is amended to read:

4 995.50 (2) (d) Conduct that is prohibited under s. 942.09 or 948.045, regardless  
5 of whether there has been a criminal action related to the conduct, and regardless  
6 of the outcome of the criminal action, if there has been a criminal action related to  
7 the conduct.

8 (END)